

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

SCOTT SHERRILL
TX-1320957-R

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DOCKETED COMPLAINT NO.
10-297 & 11-167

AGREED FINAL ORDER

On the 3RD day of August, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Scott Sherrill (the "Respondent").

In order to conclude this matter, Scott Sherrill neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Scott Sherrill is and was a Texas state certified residential real estate appraiser who held and currently holds certification number TX-1320957-R, and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property located at: 10616 Mellow Meadows Drive #40A, Austin, Texas 78750 ("the Mellow Meadows property") on or about June 6th, 2006.
3. Respondent appraised real property located at: 205 Pecan Drive, Austin, Texas 78753 ("the Pecan Street property") on or about October 24th, 2006.
4. Thereafter two complaints were filed with the Board. The complaints alleged that the Respondent had produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
5. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board. Respondent's responses to both complaints were received.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect

at the time of the appraisal report for both of the properties. Specifically, Respondent's USPAP violations with respect to the Mellow Meadows property include:

- (a) Respondent failed to identify and report adequately the improvements description, particularly relating to the nature and extent of the renovations made the property;
- (b) Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately, and failed to employ recognized methods and techniques in his sales comparison approach;
- (c) Respondent's report contains substantial errors of commission or omission as detailed above which impacted the credibility of the assignment results.

7. Respondent's USPAP violations with respect to the Pecan Street property include:

- (a) Respondent failed to collect, verify, analyze, and reconcile accrued depreciations related to functional obsolescence of the Pecan Street property's floor plan, failed to provide support for such determinations and failed to employ recognized methods and techniques in his cost approach;
- (b) Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately, and failed to employ recognized methods and techniques in his sales comparison approach;
- (c) Respondent failed to disclose, analyze and reconcile 2 prior sales of the Pecan Street property which occurred within the 3 years prior to the effective date of the Pecan Street property appraisal; and,
- (d) Respondent's report contains substantial errors of commission or omission as detailed above which impacted the credibility of the assignment results.

8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3); USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-4(a) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-1(a) & 1-4(a); 1-5(b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c) and 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Within 90 days of the effective date of this order (i.e. on or before November 16th, 2012), Respondent shall complete a total of ten (10) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the ten (10) hours of mentorship, Respondent shall submit to the Board within seven (7) days, on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- b. Attend and complete a minimum 7 hour course in Write It Write or Valuation by Comparison;
 - i. No examination shall be required for this course
- c. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- d. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **SIX MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the six-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. ***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order and provides adequate documentation of same to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

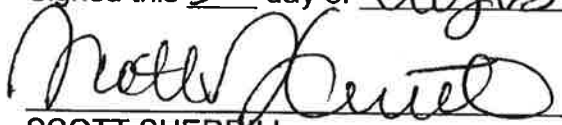
I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS OR AFFIDAVITS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 3RD day of August, 2012.


SCOTT SHERRILL

T. Whitmer

TED WHITMER, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3rd day of
_____, 2012, by SCOTT SHERRILL, to certify which, witness my hand and
official seal.

Kyle Wayne Marshall
Notary Public Signature

Kyle Wayne Marshall
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 17th day of
August, 2012.

Troy Beaulieu
Troy Beaulieu, TALCB Managing Attorney

Signed by the Commissioner this 17th day of August, 2012.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17th day of August, 2012.

Luis De La Garza
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board